

Department of Veterans Affairs

§ 13.77

Veterans Services Officer may recommend an apportionment to the dependent parents, predicated upon need, and an award of so much of the balance, if any, of the veteran's discontinued award as is necessary for the current care and maintenance of the veteran, to the hospital.

(c) *No dependents.* If the veteran is hospitalized by the United States or a political subdivision thereof other than a Department of Veterans Affairs institution and has no dependent parent, and the estate is less than \$2,500, the Veterans Services Officer may recommend an award from appropriated funds, not to exceed the amount of the veteran's discontinued award, to the hospital for current care and maintenance. When the veteran's estate is \$2,500 or more, no award from appropriated funds should be made but the Veterans Services Officer may authorize an award from Personal Funds of Patients if available; otherwise, the hospital must look to the veteran's estate for payment.

(d) *Hardship cases.* Veterans Services Officers are authorized, in exceptional cases, to deviate from the criteria stated to avoid hardship.

[40 FR 54249, Nov. 21, 1975]

§ 13.75 Beneficiaries in penal institutions.

(a) *All beneficiaries; 38 U.S.C. 1505(a).* No Department of Veterans Affairs pension may be paid to or for any individual imprisoned in a penal institution as a result of conviction of a felony or misdemeanor for the period beginning 61 days after imprisonment and ending when imprisonment ends.

(b) *Incompetent veterans; 38 U.S.C. 5503 (b)(1).* In addition to paragraph (a) of this section as to payment in pension cases, the provisions of 38 U.S.C. 5503(b)(1) governing payment of compensation, pension or emergency officers' retirement pay to an incompetent veteran are applicable during his or her confinement in a penal institution whether awaiting trial, sentence or after conviction.

[36 FR 19024, Sept. 25, 1971, as amended at 40 FR 54249, Nov. 21, 1975]

§ 13.76 Appeals from Veterans Services Officer's determination under 38 U.S.C. 5503(b)(2).

(a) *Notification.* The Veterans Services Officer will be responsible for notification of action taken and the right to initiate an appeal by filing a Notice of Disagreement and of the time limits within which such notice may be filed (§19.109 of this chapter) when he or she determines that:

(1) The dependent is not in need.

(2) The needs of the dependent parent are to be met from the veteran's estate or from Personal Funds of Patients and no payments or partial payments will be made for the dependent parents' support from appropriated funds.

(3) No award from appropriated funds for care and maintenance for the veteran in a non-Department of Veterans Affairs hospital will be made, and that the veteran's estate will have to defray the cost.

(b) *Appeals.* Part 19 of this chapter will be followed in connection with appeals to the Board of Veterans Appeals from determinations of the Veterans Services Officer. Appeals may be initiated by a dependent parent on questions of need and payments for his or her support from appropriated funds, and by a fiduciary for the disallowance of the use of appropriated funds for the veteran's institutional care and maintenance.

(c) *Statement of the case.* When a Notice of Disagreement is filed, the Veterans Services Officer will be responsible for furnishing the claimant and the claimant's representative with a Statement of the Case and such notification regarding the filing of an appeal as is provided for in §§19.114(b) and 19.115 of this chapter.

[40 FR 54249, Nov. 21, 1975]

§ 13.77 Administrative review of the Veterans Services Officer's determination made under 38 U.S.C. 5503(b)(2).

(a) *Veterans Services Officer (revisions).*

(1) The Veterans Services Officer may revise any previous determination upon review of the evidence of record, provided a specific finding is made in writing that it was clearly and unmistakably erroneous.